

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSEPH LOREN ALLEN,

Defendant.

NO. CR18-292 JCC

**GOVERNMENT'S SENTENCING
MEMORANDUM**

Joseph Allen comes before the Court for sentencing after pleading guilty to Count 1: Felon in Possession of a Firearm [May 28, 2018], Count 3: Possessing Methamphetamine with Intent to Distribute [August 23, 2018], and Count 4: Possessing a Firearm in Furtherance of a Drug Trafficking Crime [August 23, 2018].

Mr. Allen has a long history of unlawfully possessing firearms, stealing cars, and eluding police in a dangerous manner. Despite being a convicted felon, he possessed two different handguns on two different dates, only three months apart. Both of these guns were fully loaded and ready to fire, and he carried these loaded guns while he committed other felony crimes and while he recklessly fled from police who had lawful authority to stop and arrest him. To address Mr. Allen's willful disregard for the safety of other people, and to protect the public, the United States recommends the Court impose a sentence of 108 months in custody, followed by five years of supervised release.

1 house the previous night. The gun was a stolen, loaded, Sig Sauer .40 caliber semi-
2 automatic pistol with a round in the chamber.

3 In a post-arrest, post-*Miranda* interview, after the pistol was recovered, Mr. Allen
4 initially continued to deny that he possessed the gun. Later in the interview, however, he
5 admitted that the gun was his. He said, "I got out of the car and thought, get rid of the
6 gun, get rid of the gun, get rid of the gun." As Mr. Allen left the interview room, he told
7 a corrections officer, "I knew they would find that gun."

8 **B. The August 23, 2018 Arrest.**

9 Mr. Allen failed to appear for a court hearing related to his May 28, 2018 arrest
10 and a warrant issued. Around the same time, a Washington State Department of
11 Corrections (DOC) warrant issued for Mr. Allen's failure to report for supervision. On
12 August 23, 2018, Mr. Allen was located by a Violent Crime Task Force that included
13 members of Auburn PD and the United States Marshals Service. Mr. Allen was riding a
14 motorcycle, which made it particularly difficult to apprehend him. The task force
15 followed Mr. Allen until he briefly got off his motorcycle near a Wal-Mart in Federal
16 Way. As the arrest teams moved in, Mr. Allen ran from them on foot.

17 As the officers chased Mr. Allen, they saw him approach an unaffiliated, occupied
18 vehicle. The officers were concerned that Mr. Allen would try to carjack that vehicle, or
19 another vehicle, in an effort to escape. They later learned that Mr. Allen had approached
20 the vehicle occupants and offered them \$1000.00 to help him flee the area. When they
21 refused, Mr. Allen attempted to enter their vehicle without permission. Fortunately, the
22 occupants were able to lock the vehicle's doors before Mr. Allen could get inside, and
23 they signaled for the police. Mr. Allen fled the area as the police approached.

24 Mr. Allen continued to run and eventually reached a fence. As he was running, an
25 officer struck him with a patrol car to prevent him from escaping over the fence, where
26 the officers would be unable to pursue him. Mr. Allen was successfully apprehended, but
27 the collision broke both of his ankles.

1 Officers searched Mr. Allen incident to arrest. In a pocket of the motorcycle vest
2 he was wearing, Mr. Allen carried a fully loaded Taurus 9mm caliber handgun, with one
3 round in the chamber. In another pocket of his vest, Mr. Allen carried 41.4 grams of
4 methamphetamine, 10 grams of marijuana, and numerous empty plastic baggies. The
5 officers searched Mr. Allen's motorcycle and found a scale.

6 **II. THE SENTENCING GUIDELINES**

7 The government agrees with Probation that the total offense level for Count 3:
8 Possession of Methamphetamine with Intent to Distribute (after acceptance of
9 responsibility) is 25. PSR ¶¶ 20-31. The government also agrees that Mr. Allen has 21
10 criminal history points, which places him in Criminal History Category VI. PSR ¶¶ 32-
11 45. Accordingly, Mr. Allen's Sentencing Guideline Range is 110 to 137 months in
12 custody, consecutive to 60 months in custody for Count 4: Possession of a Firearm in
13 Furtherance of a Drug Trafficking Offense, which results in a combined Sentencing
14 Guideline Range of 170 to 197 months in custody. PSR ¶ 45.

15 **III. THE UNITED STATES SENTENCING RECOMMENDATION**

16 **a. Nature and Circumstances of the Offenses.**

17 Mr. Allen's offenses were egregious. He has been prohibited from possessing a
18 firearm since 1999. Yet, in both of these incidents, Mr. Allen carried a fully loaded
19 firearm with a round in the chamber, ready to fire, while he committed several other
20 crimes and tried to escape police officers who had lawful authority to stop and arrest him.
21 It is particularly aggravating that, during the August 2018 incident, Mr. Allen had been
22 released on bond, pending trial for the May 2018 incident, and he was also on DOC
23 supervision.

24 Mr. Allen denies attempting to carjack a vehicle during his attempted escape on
25 August 23, 2018. His track record of stealing cars and running from police does not
26 inspire confidence in his denials. Regardless, the police were perfectly justified in their
27 belief that he had tried to carjack one vehicle, and their concern that he would potentially
28 try to carjack others.

1 **b. History and Characteristics of the Defendant.**

2 Mr. Allen’s background is unquestionably mitigating. In recognition of that fact,
3 and despite the egregiousness of his offenses, the government is recommending a
4 sentence that is over five years below the bottom of the sentencing guideline range, and
5 below even the maximum sentence that the government would be entitled to recommend
6 under the plea agreement.

7 Even while acknowledging Mr. Allen’s difficult childhood and poor education, the
8 government cannot ignore the pattern of blatant disregard for other people that is also a
9 significant component of his history and characteristics. Mr. Allen has two prior
10 convictions for unlawfully possessing firearms. PSR ¶¶ 33, 34. He has another
11 conviction for driving a stolen car that contained the receiver for a Glock 9mm pistol,
12 along with a police scanner that was actively broadcasting Fife police dispatches. PSR ¶
13 40. In 2014, while driving in another stolen car, Mr. Allen fled police at speeds over 90
14 miles per hour. PSR ¶ 42. A few months later, Mr. Allen attempted to elude police in yet
15 another stolen car, this time at speeds over 110 miles per hour. PSR ¶ 43. Nothing in
16 Mr. Allen’s history or background compels him to endanger the public. He chooses to
17 steal cars, possess guns, distribute drugs, and drive recklessly to escape the police. His
18 choices may be explained, at least in part, by the lack of support he received as a child,
19 but they are still his choices.

20 **c. The Need to Protect the Public.**

21 Under Washington law, the crime of attempting to elude police requires proof that
22 an individual willfully both failed to stop for police *and* that he drove away “in a rash and
23 heedless manner, indifferent to the consequences.” Rev. Code of Wash. § 46.61.024;
24 Washington Pattern Jury Instructions (WPIC) 90.05 (defining “reckless manner”). Mr.
25 Allen has already been convicted of this crime twice, and he attempted to elude police for
26 a third time on May 28, 2018. By definition, this means that Mr. Allen understands that
27 his conduct is dangerous to other people, *yet continues to do it anyway*. Each of these
28 eludes, including the one on May 28, 2018, was a vehicular homicide waiting to happen.

1 To make matters worse, he was armed with a stolen, loaded gun during the elude. This
2 kind of conduct, if it continues after his release from custody, is going to get someone
3 killed.

4 Mr. Allen's conduct is all the more aggravating due to the sheer number of
5 wrongful decisions he made that endangered himself, police officers, and, worst of all,
6 innocent bystanders. In May 2018, he decided to steal a car from an innocent person.
7 While driving the stolen car, he armed himself with a loaded gun that he could not legally
8 possess. When the police tried to stop him, he decided that he would try to elude them by
9 driving 60 miles-per-hour in a 35-mile per hour zone, veering into oncoming lanes, and
10 running a red light. When a *third* PIT maneuver finally stopped Mr. Allen's car, he
11 decided to run on foot and ditch the gun. And after he was apprehended, he told the
12 arresting officers that he would have shot at them if he had a gun.

13 When Mr. Allen was charged with offense related to his May 2018 arrest, he
14 decided not to appear for court. Instead, he chose to hide from the court and DOC, and
15 drive a vehicle that would make him more difficult to apprehend. Then he decided to
16 deal methamphetamine, and, while engaging in that illegal activity, he once again armed
17 himself with a loaded gun that he could not legally possess. When the police tried to
18 arrest him for his warrants, he decided to run. He was so motivated to escape the police,
19 that he tried to enter a stranger's car—still armed with the loaded, chambered gun that he
20 illegally possessed.

21 Even now, Mr. Allen is eager to make excuses that deflect responsibility onto
22 everyone else, including police, prosecutors, Congress, the Federal Detention Center,
23 schools, and his mother. Remarkably, he still refuses to acknowledge that his choices
24 endangered the community. Instead, he treats his life experiences like a license to
25 commit crime.

26 Mr. Allen has committed the same kinds of crimes over and over again throughout
27 his life. If he cannot appreciate his responsibility for creating a risk of harm, and if he
28 does not understand—or care—that his decisions are likely to hurt innocent people, then

1 he will continue to endanger the public with the same decisions after he is released from
2 custody. Accordingly, the government asks the Court to impose a sentence that protects
3 the public, underscores the seriousness of his offenses, and emphasizes his individual
4 responsibility for those offenses, while still reflecting the mitigating aspects of his
5 background and circumstances.

6 **IV. CONCLUSION**

7 For the foregoing reasons, the United States respectfully asks the Court to
8 sentence Mr. Allen to 108 months in custody, followed by five years of supervised
9 release.

10
11 DATED this 3rd day of December, 2019.

12 Respectfully submitted,

13 BRIAN T. MORAN
14 United States Attorney

15 /s/ Jessica M. Manca

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on December 3, 2019, I have electronically filed the foregoing
3 with e Clerk of the Court using the CM/ECF system that will send notification of such
4 filing to the attorney of record for the defendant.

5
6
7 /s/ Jessica M. Manca

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